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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/869,956	10/15/2001	Frank Kappe	KAPPE=1	4398

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EXAMINER

KOSLOW, CAROL M

ART UNIT PAPER NUMBER

1755

DATE MAILED: 03/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/869,956

Applicant(s)

KAPPE ET AL.

Examiner

C. Melissa Koslow

Art Unit

1755

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 February 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

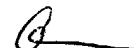
3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 32-56,58,66 and 67.Claim(s) objected to: 59.Claim(s) rejected: 57,64,65 and 68.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: See Continuation Sheet



C. Melissa Koslow
Primary Examiner
Art Unit: 1755

009/868,956

Continuation of 5. does NOT place the application in condition for allowance because: there has been no showing that the ZnS phosphors of the references are not electroluminescent, i.e. electroluminophores. Applicants' arguments are noted, but there has been no showing that the taught phosphors do not have the argued structural elements. None of the U.S. patents or foreign references, cited in this application, which teach ZnS electroluminophors make mention of these structural elements. Thus the fact they are not mentioned does not mean the taught ZnS phosphors of the art used to make the rejections does not mean they do not inherently have the argued structural elements. Even if the taught particles do not have the argued elements, it does not necessarily mean they are not electroluminophores. This is because the reference applicants' are basing their arguments on teaches these structural elements form during the hexagonal-to-cubic transformation. Applicants' process does not include this transformation, and thus would not be expected to have the argued structural elements based on the supplied reference, but yet applicants' particles are electroluminophores. Accordingly, applicants' argument that the taught phosphors are not electroluminescent is not convincing.

Continuation of 10. Other: Claim 58 should not have been rejected since it is dependent on allowed claim 56. The amendment does not create a new grounds of rejections since claim 68 would be part of the rejections over claims 57 and 64 and claim 65 would be rejected for the same reasons as claim 58, which the Examiner thought was dependent on claim 57.